

**PUBLIC HEARING DRAFT
CHANGE SHEET #2
NOVEMBER 12, 2009**

The following are a list of changes that affect the Public Hearing Draft versions of the Grading and Stormwater Management Revisions (dated August 28, 2009). The page numbers referenced in this change sheet reflect the location of the affected sections in the September 24, 2009 Planning Commission staff report. References to Change Sheet #1 will provide the page number in the October 22, 2009 staff report. All referenced documents are available on the County Planning's website at <http://www.sloplanning.org>. Click on "Grading and Stormwater Management Revisions" under the "News" heading.

The changes proposed herein are editorial in nature and do not affect the project description considered under the Environmental Impact Report. As such, no affect on the impact analysis is anticipated.

Change 2.1: Allow Low Impact Development requirements to be imposed by resolution of the Board of Supervisors.

Section Affected: 22.52.040 / 23.05.026

Page: 1-50 (Attachment C, Page 1)

Related Topic: Topic #7 – Hydromodification Control and the LID Handbook

Change:

22.52.040 - Administrative Procedures

[23.05.026]

A. Compliance with building code. All grading activities shall be in compliance with the provisions of 1997 Uniform Building Code Appendix Chapter 33, the currently adopted California Building Code, and adopted Appendices, which are hereby adopted and incorporated into this Title by reference as though it were fully set forth herein. In the event of any conflict between the provisions of this Chapter and the Uniform Building Code or California Building Code, this Title shall apply.

B. Low Impact Development (LID) Handbook. Low Impact Development requirements shall be imposed, and updated from time to time, by resolution of the Board of Supervisors after a noticed public hearing. Such requirements, when imposed, shall be a condition of the issuance of permits for, or the approval of, development projects.

Purpose: To allow the Board of Supervisors to adopt hydromodification control standards by resolution after a noticed public hearing. This section will allow enforceability of the LID provisions. Additionally, adoption by resolution gives the County more flexibility to respond to the changing requirements of the Regional Water Quality Control Board. This methodology was recommended by the Regional Board in their letter to Central Coast jurisdictions dated October 20, 2009.

Change 2.2: Bring inland grading thresholds into alignment with the coastal grading thresholds described in Change Sheet 1 (Change 1.2)

Section Affected: 22.52.060 / 23.05.030

Page: 1-51 (Attachment C, Page 2); Change 1.2 (Page 3-16)

Related Topic: Topic #4 – Grading Permit Thresholds / Topic #8 – Inland/Coastal Alignment

Change:

a. (Inland) Eliminate the threshold between 50 and 500 cubic yards

~~1.50-500 cubic yards.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned activities is between 50 and 500 cubic yards, inclusively, and one or more of the following is true:

~~1.~~

~~a. Cut/excavation.~~

~~a.~~

~~(1) The depth of excavation exceeds 1 foot.~~

~~(1)~~

~~(2) The height of the cut slope exceeds 3 feet.~~

~~(2)~~

~~(3) The cut slope is steeper than two horizontal to one vertical (2:1).~~

~~(3)~~

[Eliminate Figure 52-1 and Figure 52-2]

[Rename Figure 52-3 as Figure 52-1]

b. (Inland) Change 500 cubic yard threshold to 50 cubic yards

~~2.1. Greater than 500 cubic yards.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned activities exceeds 500 cubic yards.

~~3.2. Work in a watercourse.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned operations exceeds 20 cubic yards and involves altering or obstructing a drainage way or watercourse.

c. Delete the separate Coastal Zone Land Use Ordinance version, as the coastal and inland versions are now equivalent.

~~Coastal Zone Land Use Ordinance—Replace Subsection A with the following:~~

~~A. Grading.~~ For the purposes of this Chapter, "grading" is defined as all new earthwork that involves one or more of the following activities: excavations, cuts, fills, dams, reservoirs, levees, impoundments, diking, dredging, borrow pits, stockpiling, or compaction of fill. A grading permit is required in any of the following cases:

~~A.~~

~~1. 50 cubic yards.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned activities exceeds 50 cubic yards.

~~2.1. Work in a watercourse.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned operations exceeds 20 cubic yards and involves altering or obstructing a drainage way or watercourse.

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

Change 2.3: Bring inland slope limitations into alignment with the coastal slope limitations

Section Affected: 22.52.060 / 23.05.030

Page: 1-53 (Attachment C, Page 4)

Related Topic: Topic #6 – Slope Limitation / Topic #8 – Inland/Coastal Alignment

Change:

- a. **Require a Minor Use Permit for development on slopes between 20 and 30 percent, and a Variance for development on slopes over 30 percent.**

3. **Slopes¹.** Grading shall be limited to slopes of less than ~~30~~20 percent, except where:

[Subject to Conservation and Open Space Element Policy Approval]

- a. **Grading adjustment.** Grading on slopes between 20 percent and 30 percent may occur by Minor Use Permit or Conditional Use Permit approval, subject to the following:

- (1) The applicable review body has considered the specific characteristics of the site and surrounding area, including: the proximity of nearby streams or wetlands, erosion potential, slope stability, amount of grading necessary, neighborhood drainage characteristics, and measures proposed by the applicant to reduce potential erosion and sedimentation.
- (2) Grading and erosion control plans have been prepared by a registered civil engineer and accompany the request to allow the grading adjustment.
- (3) It has been demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.
- (4) It has been found that there is no feasible method of establishing an allowable use on the site without grading on slopes between 20 and 30 percent.

- ~~a.b.~~ **Variance.** The applicant has obtained Variance approval pursuant to Section 22.62.070²; or

- b. **Clarify the exemption of the slope limitation for agricultural purposes.**

- c. **Agricultural use.** The grading is exclusively for one or more of the following agricultural uses:

- (1) ~~an~~An exempt agricultural accessory structure as defined in Section 22.060.040E³;
- (2) ~~crop~~Crop production, or grazing, meeting the restrictions in Section 22.06.040E⁴.

¹ ~~Subsection B.2 to be replaced in CZLUO – see shaded area below.~~

² CZLUO reference: Section 23.01.045

³ CZLUO reference: Section 23.08.041

⁴ CZLUO reference: Section 23.03.040.d(9)

~~(3) This shall include a~~Any agricultural roads used exclusively for these purposes described
above in Subsections B.2.c.(1) and B.2.c.(2).

Forn

While this Subsection exempts these above uses from the 30 percent slope limitation, ~~a grading permit may still be required if criteria for permit exemption is not met~~ this Subsection shall not be construed to exempt any uses from the requirement of obtaining a grading permit as described in Section 22.52.050⁵.

c. Delete the separate Coastal Zone Land Use Ordinance version, as the coastal and inland versions are now equivalent.

~~Coastal Zone Land Use Ordinance— Replace Subsection B.2 with the following:~~

~~2.Slopes.~~ Grading shall be limited to slopes of less than 20 percent, except where:

~~2.~~

~~a.Grading adjustment.~~ Grading on slopes between 20 percent and 30 percent may occur by Minor Use Permit or Development Plan approval, subject to the following:

~~a.~~

~~(1)The applicable review body has considered the specific characteristics of the site and surrounding area, including the proximity of nearby streams or wetlands, erosion potential, slope stability, amount of grading necessary, neighborhood drainage characteristics, and measures proposed by the applicant to reduce potential erosion and sedimentation.~~

~~(1)~~

~~(2)Grading and erosion control plans have been prepared by a registered civil engineer and accompany the request to allow the grading adjustment.~~

~~(2)~~

~~(3)It has been demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.~~

~~(3)~~

~~(4)It has been found that there is no feasible method of establishing an allowable use on the site without grading on slopes between 20 and 30 percent.~~

~~(4)~~

~~b.Variance.~~ The applicant has obtained Variance approval pursuant to Section 23.01.045 to allow grading on slopes of 30 percent or greater; or

~~b.~~

~~c.Agricultural use.~~ The grading is exclusively for an exempt agricultural accessory structure, crop production, or grazing, meeting the restrictions in Sections 23.08.041 and 23.03.040.d.(9), respectively. This shall include any roads used exclusively for these purposes. While this Subsection exempts these uses from the 30 percent slope limitation, a grading permit may still be required if criteria for permit exemption is not met.

~~c.~~

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

⁵ CZLUO Reference; Section 23.05.028

Change 2.4: Minor revisions requested by the Agricultural Commissioner's Office.

Section Affected: 22.52.070 / 23.05.032 – Subsections A.1 and C.2.a

Page: 1-54 (Attachment C, Page 5); Change 1.3 (Page 3-17); Change 1.8a (Page 3-20)

Related Topic: Topic #5 – Agricultural Grading and Alternative Review

Change:

a. Allow agricultural exemptions in Subsection B to apply in GS and FH.

A. Minimum requirements to determine exempt status. The following considerations must be addressed in determining if grading activities qualify for an exemption.

1. Grading activities are not exempt within a geologic study area and/or flood hazard combining designations as shown in the Land Use Element. Agricultural grading as provided by Subsections s B and C, Alternative Review as provided by Section 22.52.080⁶, and geotechnical/geologic exploration activities are not subject to this limitation.

b. Reference commercial soil importation in Subsection C.

2. Allowed agricultural grading.

- a. **Crop production.** Grading to prepare new land for crop production on slopes with a natural gradient less than twenty percent where no off-site fill is proposed. Importation of commercial soil amendments as specified in Subsection B.11.c is permissible under this exemption.

Purpose: To accommodate changes requested by the Agricultural Commissioner's Office.

Change 2.5: Modify the exemption for ongoing crop production and grazing.

Section Affected: 22.52.070 / 23.05.032

Page: 1-57 (Attachment C, Page 8); Change 1.6 (Page 3-19)

Related Topic: Topic #5 – Agricultural Grading and Alternative Review

Change:

a. Allow land exiting the Conservation Reserve Program to qualify under the ongoing crop production exemption.

- a. For grading activities related to crop production, the proposed grading is limited to preparing a field for a crops on land that has been previously cultivated within the previous five years or covered under a conservation plan prepared as part of the Conservation Reserve Program. Cultivation shall include the following practices: disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling.

⁶ CZLUO Reference: 23.05.034

b. Do not allow ongoing range improvements to qualify for exemption if it will involve the removal of more than one-half of an acre of native vegetation.

- b. For grading activities related to range management for commercial livestock production, the grading is limited to the following activities: vegetation management, such as reseeding or vegetation modification (except for removal of one-half acre or more of native vegetation); or livestock watering systems other than ponds or reservoirs.

c. Do not allow the importation of topsoil, sand, or biosolids under this exemption.

- c. All site work shall be balanced. No importation or exportation of fill material from/to off-site parcels shall occur. These fill materials include topsoil, sand, and biosolids. The incorporation of soil fertility amendments to enhance crop production or rangeland fertility is permissible under this exemption. Soil fertility amendments include materials described in the California Food and Agricultural Code Sections 14511 et seq (excluding Sections 14552(e) and 14560).

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

Change 2.6: Move new water pipelines from "agricultural grading" to "exempt"

Section Affected: 22.52.070 / 23.05.032; 22.52.080 / 23.05.034

Page: 1-59 (Attachment C, Page 10)

Related Topic: Topic #5 – Agricultural Grading and Alternative Review

Change:

a. Delete Subsection C.2.b.

~~b. **Water pipelines.** Installation of water pipelines to serve agricultural uses. Water pipelines shall be installed under proper practices recognized by the Natural Resources Conservation Service.~~

~~b.~~

b. Add new Subsection B.13.

13. **Water pipelines.** Installation of water pipelines to serve agricultural uses. Water pipelines shall be installed under proper practices recognized by the Natural Resources Conservation Service.

c. Add references to Subsection B.13 in the Alternative Review Section.

10. **Imbalanced Grading.** Any agricultural grading identified in Section 22.52.070⁷, Subsections B.11, B.13, and C which would require the importation or exportation of fill material.

11. **Exempt uses.** At the applicant's option the Alternative Review Program may be used in lieu of exemption for grading projects described in Section 22.52.070⁸ – Subsections B.11, B.12, B.13, and C.

⁷ CZLUO reference: 23.05.032

⁸ CZLUO reference: 23.05.032

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

Change 2.7: Add a reference to typical agricultural road widths.

Section Affected: 22.52.080 / 23.05.034

Page: 1-61 (Attachment C, Page 12); Change 1.9 (Page 3-21)

Related Topic: Topic #5 – Agricultural Grading and Alternative Review

Change:

12. **New agricultural roads.** New roads providing access to farm fields, pastures, water supplies, outdoor equipment or supply storage areas, livestock grazing areas, fence lines, or an agricultural structure which does not require a county building permit (agricultural exempt structure). New roads shall be the minimum width necessary for the planned agricultural use (generally between 12 and 16 feet in width), consistent with the determination made under Subsection A.5. The road shall not supply access to a habitable structure. Ford crossings (i.e. "Arizona" crossings), as determined to be appropriate by the Agricultural Commissioner, may be included in the construction of new agricultural roads.

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

Change 2.8: Modify enforcement provisions.

Section Affected: 22.52.190 / 23.05.056

Page: 1-116 (Attachment C, Page 67); Change 1.12 (Page 3-22)

Related Topic: Topic #3 – Enforcement

Change:

- a. **Add a new Subsection E.5 to the Enforcement Section notifying the reader about violation of air pollution control regulations.**
5. Violations of San Luis Obispo County Air Pollution Control District (APCD) Rules or fugitive dust mitigation measures, the California Air Resources Board Asbestos Air Toxics Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, and the National Emission Standard for Hazardous Air Pollutants may result in required mutual settlements and or significant civil and/or criminal penalties as specified in state and federal law.

b. Add a new Subsection F to introduce a five-year permit restriction for projects where a grading violation has occurred.

- F. Denial of subsequent permits. Violation of any of the provisions of this Chapter shall be grounds for denying for five years all applications for building permits, grading permits, land use permits, tentative subdivision maps, general plan amendments, and other land development applications proposed for the site on which the violation occurred. The five-year period shall commence from the date of discovery of the violation. The Board of Supervisors may waive or reduce the penalty imposed by this subsection, for good cause. Any such waiver, if granted, shall in no way relieve the owner or applicant for any such subsequent land development application, of their duty to include the effects of the grading or clearing in any environmental analysis performed for the subsequent application, and to restore or rehabilitate the site, provide substitute or compensating resources, or perform other appropriate measures to mitigate the adverse effects of the illegal grading or clearing.

[Renumber Subsection F – Remedies not exclusive – as Subsection G]

Purpose: Part A will accommodate a request from the Air Pollution Control District. Part B will accommodate the Planning Commission's request based on deliberations on October 22, 2009.

Change 2.9: Add provisions for outreach and public education.

Section Affected: 22.52.200 / 23.05.030

Page: 1-116 (Attachment C, Page 67)

Related Topic: Topic #11 – Refining / Reformatting

Change:

22.52.010 - ~~Professional Education Program~~ Education and Outreach

[23.05.057]

A. Outreach and Public Education. A formal outreach and public education program shall be implemented to reach the broadest possible audience, including grading contractors, heavy equipment, operators, and other professionals involved in grading and/or earthwork. This program shall include, but shall not be limited to, informational handouts, webpage information, and notification of requirements distributed with construction and land use permits.

B. Professional Education Program. In the event that the County adopts a certification Program for grading contractors, where state law requires that earthwork, grading, excavation or fill be performed by a licensed contractor, that licensed contractor shall also be certified by the County. Certification requirements shall be as established by the Board, and may include, but not necessarily be limited to, satisfactory knowledge and understanding of the County Grading, Drainage and Erosion and Sedimentation Control Ordinance, and/or familiarity with and continuing education in accepted grading, drainage, erosion and sedimentation control methods.

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

Change 2.10: Modify the definition for excavation.

Section Affected: Chapter 22.80 / Chapter 23.11

Page: 1-118 (Attachment E, Page 1)

Related Topic: Topic #13 – Definitions

Change:

Excavation. Any activity by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting thereof. Excavation excludes activities associated with ~~ongoing~~ crop production ~~on existing fields~~, such as cultivation, disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling.

Purpose: To clarify that the definition of excavation does not include agricultural cultivation techniques regardless of whether the cultivation occurs on existing fields. This satisfies a request made both by the Farm Bureau and the Paso Robles Wine Country Alliance.